THE HONOURABLE SRI JUSTICE E. DHARMA RAO

W.P. No. 17195 of 2005

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Dated: 04.08.2005

Between:-

V. Sudham Prasad s/o Subba Rao, age 57 yrs, occ: Bhimavaram,
West Godavari District and another.

..PETITIONERS

AND

A.P. Housing Board, represented by its Vice Chairman-cum-
Housing Comissioner, Nampally, Gruhakalpa, M.G. Road, Hyderabad
and two others.

..RESPONDENTS

O R D E R

This writ petition is filed to declare the action of the respondents in issuing eviction orders in 3rd respondent's proceedings vide case No. 40/CA/A10/BVM/2004 and 42/CA/A10/BVRM/04, dated 14.07.2004 as illegal, arbitrary and violative of Art. 14 and 300A of Constitution of India and direction of this Hon'ble Court in W.P. No. 9285 of 2000.

The case of the petitioner is as follows:-

The respondents have issued a notification No. 17/E3/96, dated 11.01.1997 for allotment of 50 HIG. 22 MIG-II and 55 MIG-I houses under Phase III to be constructed

at Bhimavaram on outright sale basis and purchase basis on payment of 30% cost and accordingly the petitioners applied for HIG, and MIG-II. The Board has allotted HIG 108 in favour of 1st petitioner and MIG-II in favour of 2nd petitioner vide its proceedings Lr. A2/EE/TPG/BVRM/PhIII/2000, dated 12.07.2000 and the amount has to pay in 40 quarterly installments. While the construction is going on, most of the applicants have requested the Board that they would take up the works of (a) wood work and allied works including painting, (b) internal water supply and sanitation fittings, (c) septic tank and pipe lines, (d) while and colour washing, (e) Anti termite treatment and (f) earth filling with labour and material, on their own. The Board has sanctioned permission in response to their applications and also promised to deduct the proportionate cost of the building and on such assurance they spent lot of money and completed the work. While arriving the total cost of the premises, the respondents did not take into account the amount spent for contraction made by them for the said work and the original cost of the premises was taken without deducting the amount spent for the above works and quarterly installments were fixed vide circular Lr. No. A2/EETPG/BHVM-PhIII/00. As per the proceedings dated 12.07.2000 the Board had demanded the allottees to enter into an agreement in fixed proforma on non-judicial stamps. Aggrieved by the action of the Board in issuing Circular Lr. No. A2/EE/TPG/BHVM-PhIII/00, some allottees have approached this Court in W.P. No. 9285 of 2000 and the writ petition was disposed of with a direction to the respondents not to levy any penal interest on the installments due from the petitioners therein. As they have not approached this Court a penal interest of Rs. 1,64,288/- and Rs. 77,700/- respectively has been imposed and sent a demand notice, dated 22.12.2004. Aggrieved by the said notice, they have filed W.P. No.22174 of 2004 and the same was allowed on the short ground that the notices did not bear any dates and impugned notice was set aside. Later, the 3rd respondent issued a notice dated 22.12.2004 demanding Rs. 4,81,984/- and Rs. 2,65,515/- respectively including penal interest of Rs. 1,64,288/- and Rs. 77,700/- and immediately they submitted a representation to the competent authority including other respondents that an extent of Ac. 17.84 land was acquired for purpose of respondent's board in the year 2001 and in the said acquisition their land to the extent of Ac. 1.63 was also notified but no compensation has not been paid so far and they requested them to deduct the cost of the house in the compensation to be paid for their lands. They are ready to clear the above amounts immediately after receiving the compensation from the respondents and they also made a

representation to the respondents for adjustment of compensation amount towards the dues and requested to pay the balance amount of compensation, but the respondents did not take any decision so far and in addition to that they have started coercive steps of attachment of their movable property vide proceedings in Case No. 40/CA/A10/BVRM/04 and 42/CA/A10/BVRM/04, dated 14.07.2005 directed the bailiff to take possession of the premises by break opening the lock and also directed the bailiff to conduct the auction of movable properties on or after 8.8.2005 and to remit the proceeds into 3rd respondent's office. Hence, the petitioners filed the present petition.

Heard the learned counsel for the petitioner and the Standing Counsel for respondents.

The learned Standing Counsel for the respondents submitted that against the impugned demand notice, an appeal is provided to the District Judge, who is having jurisdiction under Section 55 of the A.P. Housing Board Act. The petitioner, without approaching the appellate authority, straight away approached this Court and filed the present writ petition which is not maintainable.

In view of the same, this writ petition is dismissed. No order as to costs.

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E. DHARMA RAO, J

4th August, 2005

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